

Cesarczyk, Edward J.
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REMARKS

In the Office Action mailed April 14, 2004, claims 1-34 are pending claims 1-21, 26-29 and 31-34 are rejected. Objection was made to claims 22-25 and 30. Applicant appreciates the indication of allowable subject matter.

The above amendment to the claims is submitted to further clarify that the housing and the chamber both are elements of the amended claims, i.e., the housing is not the chamber.

Applicant appreciates the courteous interview extended by Examiner Alexander to Applicant's attorney on July 16, 2004. During the interview, the cited patent was discussed. also, discussed was the chamber of the present invention. The Examiner indicated that the proposed amendment to claim 1 would be entered. The other independent claims are amended in a manner similar to claim 1. In addition, regarding the objection to claims 22-25 and 30, it was pointed out that claims 22 and 30 were independent claims. The Examiner stated that a correction would be made indicating that claims 22-25 and 30 were allowed.

Claims 1-21, 26-29 and 31-34 are rejected under 35 U.S.C. §102(e) as being anticipated by Cesarczyk et al (USP 6,150,178). Applicant respectfully submits that the cited reference ***fails*** to teach or suggest the chamber of the presently claimed invention. The housing of the cited reference cannot be considered to be the claimed chamber because it does not provide for the claimed recitation

a foam member, for collecting specimen, extending from the proximal end of the handle whereby, when the handle is drawn through the housing, collected specimen is deposited from the foam member into the fluid chamber and onto the test membrane or sample collecting strip.

Further, in the cited reference, there is not teaching or suggestion that the housing includes a channel for receiving the handle member and foam member, and the fluid chamber is adjacent said channel.